WILLS 1; STORY, CONFLICT OF LAWS, 428; *U. S.* v. *Fox*, 94 U. S. 315; WHARTON, CONFLICT OF LAWS, 599c. The Mississippi cases cited here and by the authorities, *Garland* v. *Rowan*, 2 S. & M. 617; *Slaughter* v. *Garland*, 40 Miss. 172, and *Wilson* v. *Cox*, 49 Miss. 538 in support of the decision of this court dealt with personal property only, and the other cases cited are equally barren in furnishing authority for this decision. The reason for such a holding as this one has been given as one of convenience. MINOR, CONFLICT OF LAWS, 345. But it is submitted that since the will must be probated in each state and that in the probate only such portion is dealt with as concerns the real property lying in that state, allowing the testator to make one election in one state and another and different one in other states is no more inconvenient than ruling in such cases that the same election be made as was made in another jurisdiction. Some courts have gone so far as to hold that whether or not the devisee is put to an election in the particular case is to be determined by the lex rei sitae. *Jennings* v. *Jennings*, 21 Oh. St. 56, 77. And see *Hughes* v. *Hughes*, 14 La. Ann. 84 and *Re Lewis*, 32 La. Ann. 385.

WILLS—RULE IN SHELLEY'S CASE.—A will provided that at a certain time the rest and residue of the testator's estate should be sold and the proceeds divided among his heirs, except that the share of his son Fred should be paid to certain trustees and by them invested. The income therefrom was to be paid to the said Fred during life and at his death the principal was to be paid to "his heirs." And whether Fred was in of the remainder by force of the word "heirs" was the question. *Held*, that the word "heirs" was used as mere *descriptio personarum* and that the rule in Shelley's case did not apply. *Vogt* v. *Graff* (U. S. 1912) 32 S. Ct. 134.

Though the rule in Shelley's case is a rule of law, what the word "heir" means is a matter of construction in each particular case; *De Vaughn* v. *Hutchinson*, 165 U. S. 566. The rule being a maxim of legal policy, conversant with things and not with words, applies whenever judicial exposition determines that "heirs" are described, though informally, under a term correctly descriptive of other objects; but stands excluded whenever it determines that other objects are described, though informally, under the word "heirs." 1 HAYES, CONV. (5th Ed.) 543-4. Courts are much more liberal in construing the term "heirs" as being mere *descriptio personae* in the case of wills than they are in the case of deeds. 4 KENT, COMM. 216. That when the word "heirs" is used it is used in its technical sense is presumed; *Osborne* v. *Shrieve et al.*, 3 Mason 391. But very slight grounds are held to warrant the assumption that the testator intended not to use the word in its technical sense. And in this case the determining factor was that the testator treated the share in question in a different manner from the others. The others' shares were to be paid to them respectively at once, while Fred's share was limited to the income. In *Hall* v. *Gradwohl*, 113 Md. 293, 29 L. R. A. (N. S.) 954, the testator was held as intending to use the word "heirs" as *descriptio personae* because he made all the other devises directly but the one in the particular case was to be invested in stocks and the income to go to one and at his death the stock to be divided among his heirs.